

# CITY COUNCIL ATLANTA, GEORGIA

AN ORDINANCE BY: ZONING COMMITTEE Z-03-264-7-03

03- 0 -0688

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. That the Zoning Ordinance of the City of Atlanta be amended, and the maps established in connection therewith be changed so that the following property located at 1065 Mount Paran Road, N.W. be changed from the R-2 (Single-Family Residential) District, to the PD-H (Planned Development-Housing) District, to wit:

ALL THAT TRACT or parcel of land lying and being in Land Lot 161 & 178 of the 17th District, Fulton County, Georgia., being more particularly described by the attached legal description.

SECTION 2. That this amendment is approved under the provisions of Chapter 19, entitled, "PD Planned Development District," and Chapters 19A through 19D (as applicable) of the Zoning Ordinance of the City of Atlanta, and the Director, Bureau of Buildings, shall issue a building permit for the development of the above described property only in compliance with the applicable provisions of these Chapters and with the attached conditions.

SECTION 3. That the maps referred to, now on file in the Office of the Municipal Clerk, be changed to conform with the terms of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

Municipal Clerk, CMC

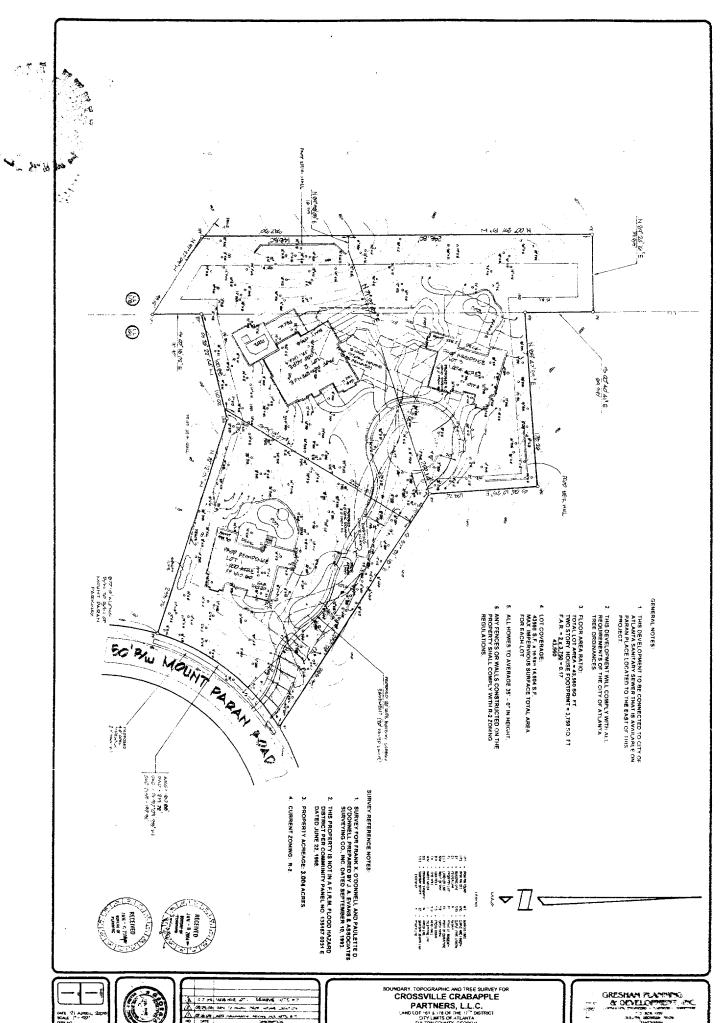
ADOPTED by the Council APPROVED by the Mayor

FEB 02, 2004 FEB 10, 2004



### Conditions for Z-03-26

- 1. Site plan entitled "Boundary, Topographic and Tree Survey for Crossville Crabapple Partners, LLC, prepared by Gresham Planning and Development, Inc., dated 21 April 2003, last revised October 7, 2003 and marked received by the Bureau of Planning January 6, 2004 and by the Zoning Review Board January 6, 2004.
- 2. The attached document marked Exhibit A "Conditions to Z-03-26, 1065 Mount Paran Road" consisting of five (5) pages and marked received by the Bureau of Planning January 8, 2004 is hereby considered a condition of this rezoning and its provisions shall be enforced as such.



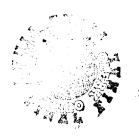






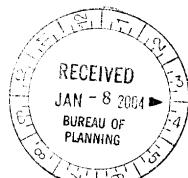






#### **CONDITIONS TO Z-03-26**

#### 1065 Mount Paran Road



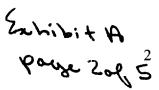
The Applicant, Crossville-Crabapple Partners, LLC (and its successors and assigns, hereinafter collectively referred to as the "Applicant"), agrees and covenants that the following conditions shall govern the use and development of the parcel (the "Property") governed by Application for Rezoning No. Z-03-26, City of Atlanta (the "Rezoning") and located generally at 1065 Mount Paran Road.

- 1. This zoning is conditioned upon a site plan by Gresham Planning & Development, Inc. dated April 21, 2003 and last revised on October 7, 2003 stamped "Filed" in the Bureau of Planning on January 6, 2004 (hereinafter the "Site Plan" and the proposed development reflected therein is referred to as the "Development"). In the event of a conflict between the Site Plan and the written conditions expressed herein, the written conditions expressed herein shall control.
- 2. Any fences or walls constructed on the Property (other than outlet control structures or other structures constructed to retain or direct storm water runoff) shall comply with R-2 zoning regulations of the City of Atlanta Zoning Ordinance as amended ("Zoning Ordinance").
- 3. The Development shall not be gated.
- 4. The residences on Lots 2 and 3 (Lots 1, 2 and 3 are depicted on the Site Plan) shall not exceed 35 feet in height as measured in accordance with the Zoning Ordinance. The front elevation of the residence on Lot 1 shall not exceed 30 feet in height.
- 5. The maximum square footage of each residence shall not exceed 7500 square feet, and the building footprint of each residence shall not exceed 3,750 square feet (exclusive of porches, decks, pools, patios, and driveways).
- 6. Stormwater management:
- (a) Detention ponds and storm water outlet control structures shall be constructed as specified in "Hydrology Study for Mount Paran Road Residential Development" by Planners and Engineers Collaborative dated October 10, 2003 and filed with the Bureau of Planning on October 16, 2003 (the "Hydrology Study"). The Applicant shall develop a retention and detention system on the Property that will satisfy the retention and storm water rules, regulations, statutes and ordinances of the City of Atlanta and the State of Georgia at a rate of at least 14% greater than the most stringent requirement imposed by said governmental entities.
- (b) In the event of a conflict between the Hydrology Study and state or local regulations, the more stringent requirement shall control.
- (c) All stormwater drain pipes shall be compacted in 12-inch layers with a plate compactor.



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- The weir walls constructed on the Property shall not exceed six (6) feet in height the Hydrology Study or City requirements impose a greater height. Notwithstanding said Hydrology Study, the weir wall proposed on Lot 1 shall be located no closer than 15 feet from the southern property line of Lot 1. The exterior of all weir walls in the Property facing the adjacent properties shall be covered with a veneer of artificial stone facing. The Applicant shall provide to the owners of the adjacent properties located at 4375 Mount Paran Parkway, 4395 Mount Paran Parkway, and 1095 Mount Paran Road (the "Immediate Neighbors") a list of three to six colors of stone-facing that may be installed on the face of the exterior of the weir walls facing said adjacent properties. Each Immediate Neighbor shall have thirty (30) days after receipt of the stone-facing options to provide to the Applicant his or her selections for the exterior of the weir wall adjacent to the affected property, which shall be incorporated into the final construction plan for development of said weir wall. If any Immediate Neighbor declines or fails to provide the selection of the color of stone-facing for the weir wall within the time required by this condition, the Applicant shall select the color of the stone-facing for the weir wall adjacent to that Immediate Neighbor's property.
  - (e) The Applicant shall provide to the Immediate Neighbors a choice of up to three locally-available varieties of rip-rap to be placed adjacent to the weir wall adjacent to that Immediate Neighbor's property. The Immediate Neighbor shall have thirty (30) days after receipt of the choices of locally-available rip-rap to provide to the Applicant his or her selection for the rip-rap to be placed near the weir wall adjacent to his or her property, which shall be incorporated into the final construction plans for the development of said weir wall. If any Immediate Neighbor declines or fails to provide the selected choice of rip-rap within the time required by this condition, the Applicant shall select the rip-rap for the weir wall adjacent to that Immediate Neighbor's property.
  - 7. The side yard setbacks along the exterior perimeter of the Property will be an average of 30 feet; provided, however, that the exterior perimeter side yard setbacks for the house on Lot 1 shall be 25 feet at the closest point and shall be an average of 30 feet, and the side yard setback for the house on Lot 3 shall be 22.5 at the closest point (said side yard being the yard adjacent to the northern property line of the Property, as the yard adjacent to the western property line of Lot 3 is the rear yard with a different setback). The front yard setback of Lot 1 along Mount Paran Road shall be 60 feet.
  - 8. The following landscaping in appropriate sizes, numbers and varieties conditions shall apply to the lots as depicted on the Site Plan:
    - (a) Perimeter landscaping shall be installed as follows:
  - (i) Lot 1: Beginning at a point 4 feet WNW of the end of the "Shrub Line" shown on the Site Plan and continuing 130 feet along the southern exterior property line and to extend further along said southern exterior property line if necessary to completely buffer the weir wall from view of the property located at 1095 Mount Paran Road.
    - (ii) Lot 2: In the following locations:



- (1) Thirty (30) trees or shrubs shall be carefully located and planted within an area approximately 30 feet wide and 210 feet long located generally in the rear yards of Lot 2 and Lot 3, such that the effect of said 30 trees and shrubs is to provide a visual buffer of the houses on Lot 2 and Lot 3 from the property located at 4375 Mount Paran Parkway; the southeastern corner of said 30 feet x 210 feet area shall be located 60 feet due north of the southernmost point of Lot 2, and said area shall extend 30 feet west from this corner and 210 feet north from this corner;
- (2) Beginning at the NE end of the property line between Lots 2 and 3 and extending SE 100 feet along the northern property line, and said landscaping shall be planted in a recurring triangular pattern; and
- (3) Above and at grade of ("in front of") the pool decking retaining wall.
  - (iii) Lot 3: In the following locations:
    - (1) Along the exterior of the weir wall;
- (2) Beginning at the intersection of the northeast corner of the property located at 4395 Mount Paran Parkway and the Property and extending due south a distance of 150 feet, said landscaping to be located 30 feet inside (to the east of) the western property line of the Property; and
- (3) Beginning at the NE end of the boundary line between Lots 2 and 3 and extending porth along the exterior property line of Lot 3.
- (iv) Except where the City of Atlanta Bureau of Buildings determines that such plantings would conflict with an outlet control structure or other drainage structure or device, this perimeter landscaping shall be installed between the drainage weir walls and the exterior property lines. All landscaping required herein shall be planted seven (7) feet on center unless a greater distance is required by the City of Atlanta Arborist and except as provided (8(a)(ii)(1))
- (v) The Applicant shall provide a one-year warranty for all new landscaping planted on the Property, said one-year period to commence upon issuance of the final certificate of occupancy regarding the final house developed on the Property.
- (b) Within sixty (60) days after adoption of Zoning Ordinance Z-03-26 by the City Council and approval by the Mayor, the property owner shall provide to all owners of property located immediately adjacent to the exterior boundaries of the property (the "Neighbors") a list of proposed landscaping shrubs and trees, including information about plant characteristics, growing conditions and recommended size, number and placement. The landscaping identified on the list provided by the Applicant shall at a minimum consist of the following: Prunus caroliniana 'Bright 'N Tight' ('Bright 'N Tight' Cherry Laurel); Loropetalum chinense var. rubrum 'Zhuzhou Fuchsia' ('Zhuzhou Fuchsia' Loropetalum); Elaeagnus pungens (Elaeagnus); Rhododendron indicum 'George L. Taber' ('George Taber' Azalea). Each Neighbor shall have ninety (90) days after receipt of the plant information to provide to the property owner his or her

Exhibit A<sup>3</sup>
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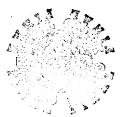
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- selections for the landscaping adjacent to his or her property or to provide selections of other plants comparable in quality and size to those plants on the list provided by the Applicant, which selection of plants shall be incorporated into the final landscaping plan for the development and shall be installed on the Property. If any Neighbor declines or fails to provide landscaping selections within the time required by this condition, the property owner shall select the plant material for the landscaping adjacent to that Neighbor's property.
- (c) The property owner will provide a one-year warranty for replacement of any existing trees that are identified to be saved under the final tree plan approved by the City but which die and are determined by the City Arborist to have died as a result of damage during construction. The warranty period shall run from the date of issuance of the final certificate of occupancy issued for the Development.
- (d) Notwithstanding any other provision in this section, in the event of a conflict between any requirement of this section and the City of Atlanta Tree Ordinance, the latter will control.
- 9. The following rules shall apply during construction of the development:
- (a) Plant and tree debris removed during the construction process shall not be buried on site and shall be removed from the property within four (4) weeks of cutting.
- (b) Exterior construction activity will be limited to 8:00 a.m. -6:00 p.m. Monday through Friday and 10 a.m. -6:00 p.m. on Saturdays. Interior construction activity shall conform to the requirements of the City of Atlanta Noise Ordinance for construction in residential areas. No construction activity shall occur on Sundays or holidays.
- (c) The contractor shall comply with all applicable State and City requirements for erosion control and shall promptly cure any failures of silt fences or other erosion control devices and structures, including removal of soil that has eroded from the property onto adjacent properties. All silt fencing installed on the Property shall be black. The silt fencing on Lot 3 shall be placed 65 feet from the rear (western) property line of Lot 3 unless the City of Atlanta Regulations or actual construction conditions require otherwise, and then the silt fencing shall be adjusted only in such locations as is necessary to comply with the contrary requirements.
- 10. On or before the date of application for a building permit, the property owner shall file with the City of Atlanta Bureau of Planning a copy of the homeowners' association covenants for the development, which shall include provisions for easements for common driveways and any other common areas and maintenance of the common areas and the stormwater drainage walls and structures. A copy of the covenants shall be provided to the Chair of NPU-A and to James M. Ney, Esq. at 100 Galleria Parkway, Suite 600, Atlanta, Georgia 30339-5947 and to Dr. Hersh Chopra, 1095 Mount Paran Road, Atlanta, Georgia 30327.
- 11. Tennis courts and basketball courts are prohibited. Basketball backboards and rims may be erected on or adjacent to driveways.

Exhibit A
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- 12. Exterior and perimeter lighting shall be installed so as to be directed away from windows, parios, decks and pools of the Immediate Neighbors and to minimize glare on adjacent properties.
- 13. The residences in the development shall be connected to the City of Atlanta sanitary sewer system. The existing septic tank on the property shall be removed prior to issuance of a certificate of occupancy for the new residences.
- 14. Ten (10) days prior to filing of any application or petition for administrative approval or modification of the Site Plan, the property owner shall provide copies of the application or petition, including copies of the Site Plan, to the Chair of NPU-A and the district councilmember, and to James M. Ney, Esq. at 100 Galleria Parkway, Suite 600, Atlanta, Georgia 30339-5947 and to Dr. Hersh Chopra, 1095 Mount Paran Road, Atlanta, Georgia 30327.
- 15. The pool and all related improvements, including but not limited to the associated decking and fencing, located on Lot 3 shall be located no closer than 68 feet from the western (rear) property line of Lot 3.
- 16. The Applicant shall enter into an escrow agreement with the Immediate Neighbors that will establish a \$10,000 escrow and that will permit the Immediate Neighbors to draw upon said escrowed funds under certain conditions to enforce the zoning conditions expressed herein. Said agreement shall be filed with the Bureau of Buildings of the City of Atlanta prior to issuance of a building permit.
- 17. The Applicant shall preserve as many existing hardwood trees as possible. The City of Atlanta Arborist shall visit the Property and inspect the existing trees after all weir walls have been installed to insure that the trees proposed to be saved have in fact not been damaged.
- 18. The weir wall located on Lot 2 shall be constructed with a drainage pipe instead of riprap, and said drainage pipe shall direct the flow of water coming from and leaving the weir wall located on Lot 2. The drainage pipe shall be trenched and buried on Lot 2 and shall continue underground within the trench to a location on the adjacent property located at 4375 Mount Paran Parkway in accordance with an agreement executed by and between the Applicant and the owners of the property located at 4375 Mount Paran Parkway. Said agreement shall be filed with the Bureau of Buildings of the City of Atlanta prior to issuance of a building permit.

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# **Legal Description**

All that tract or parcel of land lying and being in Land Lots 161 & 178 of the 17<sup>th</sup> Land District, City of Atlanta, Fulton County, Georgia, containing 3.004 Acres as shown on plat of survey by Gresham Planning & Development, Inc., William P. Gresham, Ga. R.L.S. # 2880, dated 21 April 2003, revised July 16, 2003, and being more particularly described as follows:

Beginning at an iron pin at the Northwest right of way of Mount Paran Road as measured in a Northerly direction a distance of 877.10 feet from the Northwesterly intersection of the rights of way of Mount Paran Road and Mount Paran Parkway; thence run North 72 degrees 12 minutes 01 seconds West a distance of 233.75 feet to an iron pin; thence run South 76 degrees 22 minutes 44 seconds West a distance of 110.02 feet to an iron pin; thence run South 00 degrees 18 minutes 02 seconds East a distance of 50.50 feet to an iron pin; thence run North 57 degrees 27 minutes 03 seconds West a distance of 95.12 feet to an iron pin; thence run North 00 degrees 23 minutes 15 seconds West a distance of 397.30 feet to an iron pin; thence run North 89 degrees 24 minutes 16 seconds East a distance of 79.83 feet to an iron pin; thence run South 00 degrees 40 minutes 41 seconds East a distance of 69.38 feet to an iron pin: thence run North 85 degrees 47 minutes 59 seconds East a distance of 178.26 feet to an iron pin; thence run South 04 degrees 10 minutes 25 seconds East a distance of 109.74 feet to an iron pin; thence run South 57 degrees 31 minutes 18 seconds East a distance of 285.32 feet to an iron pin at the Northwest right of way of Mount Paran Road; thence run in a southerly and Southwesterly direction along said right of way an arc distance of 160.88 feet ( said arc being subtended by a radius of 219.72 feet and a chord of South 37 degrees 09 minutes 35 seconds West a distance of 157.31 feet ) to an iron pin an the True Point of Beginning.

2-03-26

### Atlanta City Council

# Regular Session

03-0-0688 Z-03-26; R-2 TO PD-H 1065 MT PARAN RD/REAR 4345 MT PARAN PKWY ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 0

Y	Smith	Y	Archibong	NV	Moore	NV	Mitchell
Y	Starnes	NV	Fauver	Y	Martin	Y	Norwood
Y	Young	Y	Shook	Y	Maddox	Y	Willis
Y	Winslow	Y	Muller	Y	Boazman	NV	Woolard

#### □Consent □ V Vote ☐ RC Vote ☑2nd ☐1st & 2nd ☐ 3rd Readings **COUNCIL ACTION** COLUMN CAROLANIA CERTIFIED FEB 0 2 2004 RUNICIPAL CLERK 702 O A Fav, Adv, Held (see rev. side) Fav, Adv, Held (see rev. side) :ommitte Committee Members Actions Offer Members Actions Refer To Chair Others S S Chair 200 First Reading fav, Adv, Held (see rev. side) fav, Adv, Held (see ri Committee Committee Committee Refer To Members Refer To シニスつ Actions Chair Date Date Chair ADOPTED BY AND BRIDGET FEB 0 2 2004 160.32 FEET ON THE NORTHWESTERLY AN ORDINANCE TO REZONE FROM THE COUNCIL MOUNT PARAN ROAD, N.W., FRONTING APPLICANT: CROSSVILLE-CRABAPPLE DEVELOPMENT-HOUSING) DISTRICT, 03-0-0688 PARAN PARKWAY. DEPTH: VARIES; Zoning 161 & 178, 17TH DISTRICT, FULTON R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT TO THE PD-H (PLANNED AREA: 2.9566 ACRES; LAND LOTS (Do Not Write Above This Line) NORTHEAST CORNER OF MOUNT COUNCIL DISTRICT 8 BY: ZONING COMMITTEE PROPERTY LOCATED AT 1065 ist ADOPT 2nd READ & REFER SIDE OF MOUNT PARAN ROAD NORTHEASTERLY FROM THE 5/5/03 **REGULAR REPORT REFER BEGINNING 877.1 FEET** ROBERT ADVERTISE & REFER ZRB COUNTY, GEORGIA. CONSENT REFER PARTNERS, LLC Date Referred EDMONDS Referred To: OWNER: